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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/749,258	01/02/2004	Steven W. Taatjes		8561

7590
James D. Givnan, Jr.
8175 S. W. Ernst Road
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07/20/2006

EXAMINER

EDELL, JOSEPH F

ART UNIT	PAPER NUMBER
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3636

DATE MAILED: 07/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/749,258	Applicant(s) TAATJES, STEVEN W.	
	Examiner Joseph F. Edell	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 April 2006.
 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-12 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) ☐ Claim(s) _____ is/are allowed.
 6) ☒ Claim(s) 1 and 3-12 is/are rejected.
 7) ☐ Claim(s) _____ is/are objected to.
 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
 10) ☐ The drawing(s) filed on 02 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 1, 3, 4, 6-10, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,128,274 to Schmedemann in view of U.S. Patent No. 3,578,384 to Leichtl.

Schmedemann discloses a chair back that is basically the same as that recited in claims 1, 3, 4, 6-10, and 12 except that the chair back lacks an interiorly located guideway and a bearing sleeve, as recited in the claims. See Figures 1-4 of Schmedemann for the teaching that the chair has a guideway 8 in the housing 12 and in which a post 1 is carried, a retainer assembly 47 within the housing that includes an arm 42 having a distal end and a proximal end, a flange/support member (lower section of portion 27) supporting the proximal end of the arm in a movable manner, a removable fastener 44 normally seated in the chair back, and a means for biasing (see Fig. 4) the distal end toward the post to inhibit post movement along the guideway and enabling the headrest positioning relative to the housing by selected degrees of manual force wherein the means for biasing includes an adjustment screw 46 and being capable of providing an opening upon removal of the fastener that permits access of a tool to the

means for biasing to alter a biasing force of the retainer applied to the post. Claims 1, 4, 6, and 10 invoke 35 U.S.C. 112, sixth paragraph, with the claim recitation of "means for biasing" limiting claims to the disclosed description of the "means for biasing" or equivalents thereof.

Leichtl shows a chair back similar to that of Schmedemann wherein the chair back 10 (see Fig. 1) has a guideway (see Fig. 6) located interiorly within the chair back and in which a post 14 is carried, and a retainer assembly (see Fig. 2), and a bearing 52 of synthetic material enclosing the post. While teachings of Schmedemann is toward a headrest assembly in the housing 12 separate from a back support of a patient's chair (see column 2, lines 34-36 of Schmedemann), it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the teachings of Schmedemann such that the guideway is located interiorly within a chair back, and to include a bearing sleeve of synthetic material with a segment of the sleeve between the distal end of the arm and the post, such as the chair back disclosed in Leichtl. One would have been motivated to make such a modification in view of the suggestion in Leichtl that the vertically adjustable headrest supported by a chair back are well known in the art and the bearing of synthetic material provides a wear-resistant low friction insert sandwiched between the head rest post and support.

3. Claims 5 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schmedemann in view of Leichtl as applied to claims 1, 3-4, 6-10, and 12 above, and further in view of U.S. Patent No. 4,682,817 to Freber and U.S. Patent No. 4,563,040 to Alster.

Schmedemann, as modified, discloses a chair back that is basically the same as that recited in claims 5 and 11 except that the chair back lacks a trim plate with a removable fastener in axial alignment with the adjustment screw, as recited in the claims. See Figure 1 of Schmedemann for the teaching that the chair back has exterior plates forming the housing 12. However, Schmedemann is silent as to how a tool accesses the trim plate to adjust the adjustment screw. Please note, Examiner reasonably interprets a trim plate as a plate exhibiting neatness, good order, or compactness of line or structure, as defined in *Merriam Webster's Collegiate Dictionary, Tenth Edition*. Therefore, an exterior plate of Schmedemann's housing 12 meets the limitation of a trim plate as the plate exhibits compactness of structure.

Freber shows a headrest assembly similar to that of Schmedemann wherein the plate 50 (see Fig. 9) has an access opening 52 in axial alignment with an adjustment screw 74 that contacts a means for biasing 56. In addition, Alster shows a chair similar to that of Schmedemann wherein screws 44 (see Fig. 1) have removable fasteners 72 that, upon removal, allow access to the screws. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the chair back of Schmedemann such that the trim plate has fasteners normally extending through an opening in the trim plate and into the chair back wherein the fasteners are in axial alignment with the adjustment screws and upon fastener removal permits access to the adjustment screw through the opening for temporary application of a tool to adjustment screw to vary a force applied to the post by the arm, as taught in Freber and Alster. One would have been motivated to make such a modification in view

of the suggestion in Freber that the axially aligned opening in the plate provides access to the adjustment screw to vary the force applied by the means for biasing. One would have been motivated to make such a modification in view of the suggestion in Alster that the removable fasteners provide capping to the opening in the chair that houses the screw in order to have a flush appearance.

Response to Arguments

4. With respect to the response filed 19 April 2006, Applicant should submit an argument under the heading "Remarks" pointing out disagreements with the Examiner's contentions. Applicant must also discuss the references applied against the claims, explaining how the claims avoid the references or distinguish from them. Any remarks and specification amendments filed with the non-compliant amendments of 12 September 2005 and 10 January 2006 were not considered, as these amendments were non-compliant.

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JE
July 13, 2006


Peter M. Cuomo
Supervisory Patent Examiner
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